

## Article - Real Property

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§12–104.

(a) The damages to be awarded for the taking of land is its fair market value.

(b) The damages to be awarded where land, or any part of it, is taken is the fair market value of the part taken, but not less than the actual value of the part taken plus any severance or resulting damages to the remaining land by reason of the taking and of future use by the plaintiff of the part taken. The severance or resulting damages shall be diminished to the extent of the value of the special (particular) benefits to the remainder arising from the plaintiff's future use of the part taken.

(c) For the purpose of determining the extent of the taking and the valuation of the tenant's interest in a condemnation proceeding, no improvement or installation which otherwise would be deemed part of the land shall be deemed personal property so as to be excluded from the taking solely because of the private right of a tenant, as against the owner of any other interest in the land sought to be condemned, to remove the improvement or installation, unless the tenant exercises his right to remove it prior to the date when his answer is due, or states in his answer his election to exercise this right.

(d) The damages to be awarded for the taking of a structure, such as a church or place of religious worship, held in fee simple, or under a lease renewable forever, by or for the benefit of a religious body and regularly used by the religious body, are the cost of reproducing or replacing the improvements, adjusted for physical and functional depreciation, to which shall be added the fair market value of the land.

(e) (1) The damages to be awarded for the taking of all land owned and designated by a public body as park land, open space, or recreation area is the fair market value as of the valuation date, of other land substantially similar in size and character and of comparable quality for park, open space, or recreational purposes for the community which made use of the land to be taken. No damages may be awarded unless other land is acquired for park, open space, or recreational purposes. No awarded damages may be less than the fair market value of the land to be taken.

(2) The damages to be awarded for the taking of part of the park land, open space, or recreation area is the fair market value of the part taken, but not less than the actual value of the replacement land as defined in paragraph (1) of this subsection plus any severance or resulting damages to the remaining land by reason

of the taking and of the future use by the plaintiff of the part taken. The severance or resulting damages are to be diminished to the extent of the value of the special (particular) benefits to the remainder arising from the plaintiff's future use of the land taken.

(3) Where the land, or any part of it, taken pursuant to this subsection contains improvements, the damages to be awarded, in addition to that provided for in paragraphs (1) and (2) of this subsection, shall include the reasonable cost as of the valuation date of providing new improvements of substantially the same size, comparable character, and for the same purpose as those taken.

(f) The damages to be awarded for the taking of land or an interest in land over which an easement in gross or other right to restrict its use has been granted pursuant to § 2-504 of the Agriculture Article shall be as provided for in this subsection and § 2-515 of the Agriculture Article:

(1) The damages to be awarded for the taking of an entire tract is its fair market value after deducting the lesser of (a) the value of the easement granted, or (b) the excess of the aggregate amount of the property taxes that would have been due on the property if the easement had not been granted above the aggregate amount of property taxes actually paid on the property since the easement was granted.

(2) The damages to be awarded where part of a tract of land is taken is the fair market value of the part taken less the deduction computed as described in paragraph (1) of this subsection, but not less than the actual value of the part taken less the deduction computed as described in paragraph (1) of this subsection, plus any severance or resulting damages to the remaining land by reason of the taking and of future use by the plaintiff of the part taken.

(g) If any easement in gross or other right to restrict use of land or any interest in land has been donated to the Maryland Historical Trust or the Maryland Environmental Trust, damages shall be awarded in any condemnation proceedings under this title to the fee owner and leasehold owner, as their interests may appear, and shall be the fair market value of the land or interest in it, computed as though the easement or other right did not exist.

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